IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.866 OF 2007
IN
APPEAL FROM ORDER NO.505 OF 2007

Smt.Padmini Nandkumar Nair ...Applicant

vs.

Wamanrao Daguji Bodake & Ors. ...Respondents

Mr.A.A.Kumbhakoni with Mr.A.M.Kulkarni for the Applicant
Mr.S.G.Deshmukh for the Respondents.

CORAM: A.S.OKA,J.
DATE : AUGUST 6, 2007.

P.C.:

1. Heard the learned Counsel appearing for the Applicant. The prayer in this Application is for recall of the Order dated 10th July 2007 passed by this court in Appeal from Order No.505 of 2007.

2. My attention has been invited to paragraph 13 of the said Judgment and Order. The submission of the learned Counsel for the Applicant is that the alleged schedule to the writing dated 3rd June 2003 which is referred to in the Judgment and order passed by this Court is in fact not annexed to the document dated 3rd June 2003 and what has been annexed as the schedule to the said document in the compilation filed by the Respondent in the Appeal from Order is the schedule annexed to the legal notice dated 5th August 2000. He submitted that as the Judgment and Order passed in the Appeal from Order is

based on what is stated in the schedule, the said order needs to be recalled.

2. I have considered the submission. The submission cannot be accepted for more than one reason. Firstly, when the Appeal from Order was argued before this Court, extensive submissions were made on the document dated 3rd June 2003 a copy of which was produced along with a compilation of documents. However, this submission was not at all made on behalf of the Applicant. Secondly, though a xerox copy of the said document was produced in the trial court, admittedly no such objection was raised by the Applicant before the trial court during the course of arguments on the application for temporary injunction. Thirdly, it must be stated that the document dated 3rd June 2003 itself refers to a schedule annexed to the said document. The applicant has not disputed the execution of the said document by her. It is not the case made out by the Applicant that no schedule was annexed to the said document. Moreover, if the applicant's case is that schedule annexed to the said document in the compilation tendered by the Respondent is not correct, it was for the applicant to point out what are the contents of the schedule annexed to the document dated 3rd June 2003.

3. Therefore, there is no reason to recall the earlier Judgment and Order. All these contentions, if raised, will

have to be considered by the trial court at the stage of hearing of the suit.

4. There is no reason to recall the Judgment and Order dated 10th July 2007 by which the discretionary and equitable interim order passed by the trial court is confirmed. Hence, application is rejected.

5. At this stage, prayer is made by the learned counsel for the applicant for continuation of the ad-interim relief granted by this Court on 10th July 2007 by which ad-interim relief granted earlier was extended by a period of four weeks from that date. The said prayer is opposed by the counsel for the Respondent.

6. Considering the facts and circumstances of the case, ad-interim order granted on 12th June 2007 and extended by the order dated 10th July 2007 will continue to operate for a period of two weeks from today. No further extension will be granted.

JUDGE